

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA

v.

GORDON ERNST,

Defendant.

Case No. 1:19-cr-10081-IT

**DEFENDANT GORDON ERNST'S MOTION TO JOIN  
DONNA HEINEL AND JOVAN VAVIC'S MOTIONS TO DISMISS INDICTMENT**

Defendant Gordon Ernst, by and through undersigned counsel, moves to join the motions to dismiss filed by Defendants Donna Heinel and Jovan Vavic pursuant to Fed. R. Crim. P. 12(b)(3)(B) (Dkt. Nos. 264, 267) in the above-captioned case. Ms. Heinel argues that Count One of the Indictment should be dismissed for failure to state a claim because the Indictment improperly uses a “pattern of racketeering activity” as a proxy for an “association-in-fact enterprise.” She further argues that the Indictment fails to properly plead an association-in-fact enterprise because it fails to allege either a common purpose or a relationship joining the defendants in any coordinated activity towards the common purpose. Similarly, Mr. Vavic argues that the Indictment fails to allege to allege a single RICO conspiracy among the Enterprise and the various defendants and that it fails to adequately allege that he joined the alleged RICO conspiracy. Both motions to dismiss the indictment equally apply to Mr. Ernst. Undersigned counsel therefore wishes to advance the same arguments on Mr. Ernst’s behalf and requests permission to join in both motions. No prejudice to the government would arise from the allowance of this motion.

Wherefore, for the foregoing reasons, Defendant Gordon Ernst respectfully requests that his motion to join the motions to dismiss the indictment filed by Defendants Donna Heinel and Jovan Vavic be allowed.

Dated: October 16, 2019

Respectfully submitted,

GORDON ERNST

By his attorneys,

/s/ Tracy A. Miner

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**LOCAL RULE 7.1(a)(2) CERTIFICATION**

I hereby certify that, pursuant to Rule 7.1(a)(2) of the Local Rules of the United States District Court of Massachusetts, counsel for Mr. Ernst conferred with counsel for the United States on October 16, 2019 regarding this motion, and Assistant United States Attorney Justin O'Connell informed us that the United States has no objection to Mr. Ernst joining the other co-defendants' motions to dismiss.

/s/ Seth B. Orkand

Seth B. Orkand

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing document was served by email on counsel for the Government on October 16, 2019.

/s/ Seth B. Orkand

Seth B. Orkand